

Levi  
& Korsinsky33 Whitehall St., 17th Floor  
New York, NY 10004

2-363-7500

2-363-7171

www.zlk.com

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 10/23/2024

r@zlk.com

October 22, 2024

**MEMO ENDORSED****BY ELECTRONIC CASE FILING**

Honorable Barbara Moses, Magistrate Judge  
 United States District Court - Southern District of New York  
 Daniel Patrick Moynihan United States Courthouse  
 500 Pearl St., Room 740  
 New York, NY 10007-1312

Application GRANTED. The Clerk of Court is respectfully directed to close the motion now pending at Dkt. 23 as MOOT. SO ORDERED.

Barbara Moses  
 United States Magistrate Judge  
 October 23, 2024

**Re: Joiner et al. v. NHL Enterprises, Inc. et al, Case No. 1:23-cv-02083-LAK-BCM**

Dear Judge Moses:

Pursuant to the Court's February 15, 2024 Order (ECF 36), Plaintiffs Zachary Joiner, Daniel Kassl, and Hanwook Nam ("Plaintiffs") and Defendants the National Hockey League and NHL Enterprises, Inc. (collectively, "NHL" or "Defendants") jointly write to inform the Court that the Second Circuit issued its decision in *Salazar v. National Basketball Association*, No. 23-1147 (2d Cir. Oct. 15, 2024). The Second Circuit's decision is attached.

Here, Defendants' moved to dismiss on June 20, 2023 (the "Motion"). Plaintiffs submitted their opposition on July 26, 2023, and Defendants submitted their reply on August 23, 2023. On February 15, 2024, this case was stayed, pending the Second Circuit's decision in *Salazar*.

The Parties have conferred and agree that it would be helpful to the Court and the Parties for the Parties to refresh the pleadings and briefing in this matter to (i) reflect their respective positions on the guidance provided by *Salazar* and numerous other VPPA decisions issued over the 14 months since briefing on the Motion was closed; and (ii) narrow the issues in dispute. Defendants believe that there are several grounds for dismissal which are unaffected by *Salazar* and supported by the other case law. Plaintiffs disagree, but believe the Complaint could nonetheless be strengthened in light of recent VPPA case law. The Parties therefore propose the following schedule for amendment of the Complaint and a subsequent motion to dismiss:

- November 12, 2024 – Plaintiffs' Amended Complaint Due.
- December 12, 2024 – Defendants' Motion to Dismiss Due.
- January 13, 2025 – Plaintiffs' Opposition Due.
- January 29, 2025 – Defendants' Reply Due.

October 22, 2024



We thank the Court for its attention to this matter, and respectfully request that the proposed schedule be “so ordered.”

Respectfully,

/s/ Mark S. Melodia

Mark S. Melodia  
Stosh M. Silivos  
Sophie L. Kletzien  
**HOLLAND & KNIGHT LLP**  
31 West 52nd Street  
New York, New York 10019  
(212) 513-3200  
mark.melodia@hklaw.com  
stosh.silivos@hklaw.com  
sophie.kletzien@hklaw.com

*Counsel for Defendants NHL Enterprises,  
Inc. and National Hockey League*

/s/ Mark S. Reich

Mark S. Reich (MR-4166)  
Courtney E. Maccarone (CM-5863)  
Gary I. Ishimoto (pro hac vice to be filed)  
33 Whitehall St., 17th Floor  
New York, NY 10004  
Telephone: (212) 363-7500  
Facsimile: (212) 363-7171  
Emails: mreich@zlk.com  
cmaccarone@zlk.com  
gishimoto@zlk.com

*Counsel for Plaintiffs*